

DONALD R. HARPER, JIMMY BOSTIC,  
STACY GAGE, JOEL BROWN, and  
JERRY FREEMAN,

Plaintiffs,

v.

HUGO POLICE DEPARTMENT, and  
CHOCTAW COUNTY SHERIFF  
DEPARTMENT,

Defendants.


HUGO POLICE DEPARTMENT, and  
CHOCTAW COUNTY SHERIFF  
DEPARTMENT,  
  
Defendants.

This matter comes before the Court on Defendant Choctaw County Sheriff’s Department’s Motion to Dismiss Plaintiffs’ Complaint and Brief in Support. (Doc. No. 24.) Plaintiffs filed a “Respond to Motion to Dismiss” (Doc. No. 40), and Defendant has replied. (Doc. No. 43.)

In order to survive a motion to dismiss for failure to state a claim upon which relief can be granted, factual allegations must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true even if doubtful in fact. Bell Atlantic Corp. v. Twombly, 127 S.Ct. 1955, 1964-65 (2007). Yet the Court need not accept as true legal conclusions from the complaint or “‘naked assertion[s]’ devoid of ‘further factual enhancement.’” Ashcroft v. Iqbal, \_\_\_\_ U.S. \_\_\_\_, 129 S.Ct. 1937 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. at 557). The Court, being fully advised in the premises, and based upon the reasons as more fully set forth in Defendant Choctaw County Sheriff’s Department’s Motion to Dismiss Plaintiffs’ Complaint and Brief in Support (Doc. No. 24), finds that Plaintiffs have failed to meet this standard and Defendant’s Motion to Dismiss should be and hereby is GRANTED.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that Defendant Choctaw County Sheriff's Department's Motion to Dismiss Plaintiffs' Complaint and Brief in Support (Doc. No. 24) is granted and judgement is hereby entered in favor of Defendant.

**IT IS SO ORDERED** this 28th day of July 2009.



James H. Payne  
United States District Judge  
Eastern District of Oklahoma